



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE
International Trade Administration
[A-570-831]

Fresh Garlic from the People's Republic of China: Initiation of Semiannual Antidumping Duty New Shipper Review; 2017-2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On May 23, 2018, the Department of Commerce (Commerce) received a timely request for a semiannual new shipper review (NSR) from Jinxiang Infang Fruit & Vegetable Co., Ltd (Infang), in accordance with section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended. Commerce has determined that the request for a NSR of the antidumping duty order on Fresh Garlic from the People's Republic of China (China) meets the statutory and regulatory requirements for initiation. The period of review (POR) is November 1, 2017, through May 31, 2018.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Alexander Cipolla, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4956.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the antidumping duty order on fresh garlic from China in the *Federal Register* on November 16, 1994.¹ On May 23, 2018, Commerce received a timely request for a NSR from Infang.² Infang certified that it is the exporter of the fresh garlic upon which the request for a NSR is based. Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Infang certified that it did not export fresh garlic for sale to the United States during the period of investigation (POI).³ Moreover, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Infang certified that, since the investigation was initiated, it never has been affiliated with any exporter or producer who exported the subject merchandise to the United States during the POI, including those not individually examined during the investigation.⁴ Further, as required by 19 CFR 351.214(b)(2)(iii)(B), it certified that its export activities are not controlled by the central government of China.⁵ Infang also certified it had no subsequent shipments of subject merchandise.⁶

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), Infang submitted documentation establishing the following: (1) the date of its first sale to an unaffiliated customer in the United States; (2) the date on which the fresh garlic was first entered; and (3) the volume of that shipment.⁷

Pursuant to 19 CFR 351.214(b)(2)(ii)(B), since Infang is the exporter, but not the producer of the subject merchandise, Infang's producer, Jinxiang Excelink Foodstuffs Co., Ltd. (Excelink) certified: (1) that it did not export subject merchandise to the United States during the

¹ See *Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 59209 (November 16, 1994).

² See Infang's Letter, "Fresh Garlic from the People's Republic of China: Request for New-Shipper Review," dated May 23, 2018 (Infang's NSR Request).

³ *Id.* at Exhibit 1.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 4.

⁷ *Id.* at Exhibit 3.

period of investigation; (2) that it has never been affiliated with any producer or exporter that did export of subject merchandise to the United States during the POI; and (3) that Excelink produced the subject merchandise exported by Infang in the relevant POR.⁸

Commerce queried the database of U.S. Customs and Border Protection (CBP) in an attempt to confirm that the shipment reported by Infang had entered the United States for consumption and that liquidation had been properly suspended for antidumping duties. The information which Commerce examined was consistent with that provided by Infang in its request.⁹ In particular, the CBP data confirmed the price and quantity reported by Infang for the sale that forms the basis for this NSR request.

Period of Review

Pursuant to 19 CFR 351.214(c), an exporter or producer may request a NSR within one year of the date on which its subject merchandise was first entered. Moreover, 19 CFR 351.214(d)(1) states that if the request for the review is made during the six-month period ending with the end of the semiannual anniversary month, the Secretary will initiate an NSR in the calendar month immediately following the semiannual anniversary month. Further, 19 CFR 351.214(g)(1)(i)(B) states that if the NSR was initiated in the month immediately following the semiannual anniversary month, the POR will be the six-month period immediately preceding the semiannual anniversary month. Infang made the request for an NSR, which included all documents and information required by the statute and regulations, within one year of the date on which its fresh garlic first entered. Its request was filed in May, which is the semiannual anniversary month of the order. Infang also requested that Commerce use the discretion afforded it under 19 CFR 351.214(f)(2)(ii) to alter the POR to capture the entry. As stated by Infang,

⁸ *Id.* at Exhibit 2.

⁹ See Memorandum, “New Shipper Review of the Antidumping Duty Order on Fresh Garlic from the People’s Republic of China: U.S. Customs and Border Protection Entry Data,” dated June 18, 2018.

“{t}he invoice and export date of the shipment was during the six-month POR, but the shipment entered the United States...after this period.”¹⁰ Based on the information provided by Infang, Commerce finds that extending the POR to capture the entry would not prevent the completion of the review within the time limits set by Commerce's regulations. Therefore, in accordance with 19 CFR 351.214(f)(2)(ii), Commerce is extending the POR by one month. Accordingly, the POR is November 1, 2017, through May 31, 2018.¹¹

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(b), and the information on the record, Commerce finds that Infang's request meets the threshold requirements for initiation of a NSR and, therefore, is initiating an NSR of Infang. Commerce intends to issue the preliminary results within 180 days after the date on which this review is initiated and the final results within 90 days after the date on which we issue the preliminary results.¹²

It is Commerce's usual practice in cases involving non-market economies to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate (*i.e.*, a separate rate) provide evidence of *de jure* and *de facto* absence of government control over the company's export activities.¹³ Accordingly, Commerce will issue questionnaires to Infang, which will include a section requesting information with regard to its export activities for the purpose of establishing its eligibility for a separate rate. The review will proceed if the responses provide sufficient indication that Infang is not subject to either *de jure* or *de facto* government control with respect to its exports of fresh garlic.

¹⁰ See Infang's NSR Request at 4 (BPI omitted).

¹¹ See 19 CFR 351.214(g)(1)(i)(B).

¹² See section 751(a)(2)(B)(iv) of the Act.

¹³ See Import Administration Policy Bulletin, Number: 05.1. (<http://ia.ita.doc.gov/policy/bull05-1.pdf>).

We will conduct this new shipper review in accordance with section 751(a)(2)(B) of the Act, as amended by the Trade Facilitation and Trade Enforcement Act of 2015.¹⁴

Interested parties requiring access to proprietary information in this proceeding should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: July 2, 2018.

Gary Taverman,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

¹⁴ The Trade Facilitation and Trade Enforcement Act of 2015 removed from section 751(a)(2)(B) of the Act the provision directing Commerce to instruct Customs and Border Protection to allow an importer the option of posting a bond or security in lieu of a cash deposit during the pendency of a new shipper review.

